

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION

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SEVENTH DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

KENNETH SAMUEL BERNER, )  
                                  )  
Plaintiff,                    )  
                                  )  
vs.                            )  
                                  )  
OUTDOOR ENVIRONMENTS GROUP, )  
LLC, DANIEL KILLINGER, and CHAD )  
BRUICK,                        )  
                                  )  
Defendants.                    )

CAUSE NO.

**1:09-cv-0685 SEB -JMS**

**COMPLAINT FOR DAMAGES**

Plaintiff, Kenneth "Sam" Berner, for his complaint against Defendants, Outdoor Environments Group, LLC ("OEG"), Daniel Killinger and Chad Bruick, states the following:

**I. Parties**

1. Plaintiff is a resident of Florida.
2. OEG is an incorporated business with an office in Hamilton County.
3. Mr. Killinger is an owner of OEG.
4. Mr. Killinger is involved in the day-to-day operations of OEG.
5. Mr. Bruick is an owner of OEG.
6. Mr. Bruick is involved in the day-to-day operations of OEG.

**II. Jurisdiction and Venue**

7. This court has jurisdiction to hear this claim pursuant to 28 U.S.C. §1331, in that the claim arises under the laws of the United States. Specifically, Plaintiff brings this action to enforce his rights under FLSA, as allowed by 29 U.S.C. §216.

8. Venue in the Southern District of Indiana, Indianapolis Division, is appropriate by virtue of Defendants doing business in this District.

### **III. Factual Allegations**

9. Plaintiff began working for Defendants on April 7, 2008.
10. At the advent of his employment, Plaintiff was paid a salary of \$45,000 per year.
11. In January 2009, Plaintiff was given a raise to \$50,000 per year.
12. Plaintiff worked hours over forty hours in a given workweek for Defendants.
13. Plaintiff was not paid overtime wages at time and a half his regular rate for hours that he worked over forty hours in a given workweek for Defendants.
14. Defendants paid Plaintiff on a bi-weekly basis.
15. Defendants terminated Plaintiff's employment on March 13, 2009.

#### **Count I** **Failure to Properly Pay Overtime Wages** **Pursuant to the FLSA, 29 U.S.C. §201 *et. seq.***

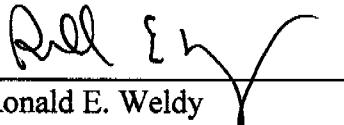
16. Plaintiff was an employee of OEG.
17. Plaintiff's work for OEG affected interstate commerce.
18. OEG is an employer pursuant to the FLSA.
19. Mr. Killinger is an employer pursuant to the FLSA.
20. Mr. Bruick is an employer pursuant to the FLSA.
21. Defendants failed to properly pay Plaintiff overtime wages for all hours that he worked over 40 hours during the course of his employment.
22. Defendants willfully failed to properly pay Plaintiff overtime wages for all hours that he worked over 40 hours during the course of his employment.
23. Defendants' violations of the FLSA damaged Plaintiff.

WHEREFORE, Plaintiff prays that the Court:

- A. Enter an award for Plaintiff for the overtime wages owed to Plaintiff during the course of his employment with Defendants with interest.
- B. Enter an award for liquidated damages with interest.
- C. Enter an order awarding Plaintiff all reasonable attorney fees and expenses incurred in pursuing this claim as permitted by the FLSA.
- D. Enter an award for such other relief as may be just and appropriate.

Respectfully submitted,

WELDY & ASSOCIATES

  
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Kenneth "Sam" Berner

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